

Federal Communications Commission

DA 98-0310

Before the
Federal Communications Commission
Washington, D.C. 20554

RECEIVED

NOV - 9 1998

In the Matter of)

BellSouth Telecommunications, Inc.)

F.C.C. Tariff No. 1 for Provision of)

Local Number Portability Database Services)

CC Docket No. 98-199

Transmittal No. 482,

F.C.C. Tariff No. 1

FCC MAIL ROOM

Memorandum Opinion and Order

Adopted: November 4, 1998

Released: November 4, 1998

By the Chief, Competitive Pricing Division:

I. Introduction

1. In this Memorandum Opinion and Order, we suspend for one day and set for investigation BellSouth Telecommunications, Inc. (BellSouth) F.C.C. Tariff No. 1, Transmittal No. 482, which seeks to revise rates and to offer volume and term pricing for number portability query services.

II. Background

2. Section 251(b)(2) of the Communications Act of 1934, as amended, requires all local exchange carriers "to provide, to the extent technically feasible, number portability in accordance with requirements prescribed by the Commission."¹ Section 251(e)(2) states that "[t]he cost of establishing telecommunications numbering administration arrangements and number portability shall be borne by all telecommunications carriers on a competitively neutral basis as determined by the Commission."² Pursuant to section 251(b)(2) and criteria the Commission established in its *Report and Order and Further Notice of Proposed Rulemaking (Order and Further Notice)* to implement this statutory mandate, carriers will provide long-term number portability through a location routing number (LRN) architecture.³ Under an LRN architecture, each switch is assigned a unique ten-digit LRN, the first six digits of which identify the location of that switch.⁴ Each customer's telephone number is paired with

¹ 47 U.S.C. § 251(b)(2).

² 47 U.S.C. § 251(e)(2).

³ See *In re Telephone Number Portability, First Report and Order and Further Notice of Proposed Rulemaking*, 11 FCC Rcd 8352, 8377-84 (1996) (*Order and Further Notice*); *In re Telephone Number Portability, Second Report and Order*, 12 FCC Rcd 12281, 12287 (1997) (*Second Report and Order*).

⁴ NORTH AMERICAN NUMBERING COUNCIL, LOCAL NUMBER PORTABILITY ADMINISTRATION SELECTION WORKING GROUP REPORT [hereinafter NANC RECOMMENDATION] App. D (Architecture & Administrative Plan for Local Number Portability), ¶ 7.2 at 6 (April 25, 1997), *adopted, Second Report and Order*, 12 FCC Rcd at

the LRN for the switch that currently serves that telephone number, and the number and the corresponding LRN are stored in one of seven databases, each of which serves an area that corresponds to one of the original Regional Bell Operating Company service territories.⁵ Neutral third parties, called local number portability administrators, will administer these regional databases.⁶

3. When a customer changes from one LEC to another, the carrier that wins the customer will "port" the customer's number from the former carrier by electronically transmitting (uploading) the new LRN to the administrator of the relevant regional database.⁷ This will pair the customer's original telephone number with the LRN for the switch of the new carrier, allowing the customer to retain the original telephone number. The regional database administrator will then electronically transmit (download) LRN updates to local service management systems operated by carriers or third-parties.⁸ This information will then be distributed to service control points (SCPs) that the carriers use to store and process data for providing number portability.⁹

4. For a carrier to route an interswitch telephone call to a location where number portability is available, the carrier must determine the LRN for the switch that serves the terminating telephone number of the call.¹⁰ Carriers will accomplish this by querying an SCP to find the LRN of the terminating telephone number. In the *Second Report and Order*, the Commission approved the

12283-84; see AIN PROGRAM, NATIONAL COMMUNICATIONS SYSTEM, LOCAL NUMBER PORTABILITY: AIN AND NS/EP IMPLICATIONS, § 6.1 (July 1996) [hereinafter LOCAL NUMBER PORTABILITY REPORT]. The industry has not yet decided a use for the last four digits. NANC RECOMMENDATION, App. D (Architecture & Administrative Plan for Local Number Portability), ¶ 7.2 at 6.

⁵ See *Order and Further Notice*, 11 FCC Rcd at 8359-60, 8399-8400, 8494-95; LOCAL NUMBER PORTABILITY REPORT, *supra* note 4, at § 6.1.

⁶ See *Order and Further Notice*, 11 FCC Rcd at 8400-03.

⁷ See NANC RECOMMENDATION, *supra* note 4, App. E (LNPA Technical & Operational Requirements Task Force Report) app. a (Issues & Resolutions), p. 1, and app. b (Inter-Service Provider LNP Operations Flows), fig. 1 (Provisioning) & p. 2. The former carrier may, at its option, also transmit this information. *Id.*

⁸ See *id.* at app. b (Inter-Service Provider LNP Operations Flows), fig. 2 (Provisioning Without Unconditional 10-Digit Trigger) & p. 1, step 4, and fig. 3 (Provisioning With Unconditional 10-Digit Trigger) & p. 1, step 5.

⁹ See *id.* at app. b (Inter-Service Provider LNP Operations Flows), fig. 2 (Provisioning Without Unconditional 10-Digit Trigger) & p. 2, step 8, and fig. 3 (Provisioning With Unconditional 10-Digit Trigger) & p. 2, step 8.

¹⁰ See *Order and Further Notice*, 11 FCC Rcd at 8359-60, 8494-95; LOCAL NUMBER PORTABILITY REPORT, *supra* note 4, at §§ 2.3, 5. Calls originating and terminating on the same switch need not be queried. See NANC RECOMMENDATION, *supra* note 4, App. D (Architecture & Administrative Plan for Local Number Portability), ¶ 8 at 10 & fig. 2, scenarios 1 & 2.

industry's "N minus one" (N-1) querying protocol.¹¹ Under this protocol, the N-1 carrier will be responsible for the query, "where 'N' is the entity terminating the call to the end user, or a network provider contracted by the entity to provide tandem access."¹² Thus, the N-1 carrier for a local call will usually be the calling customer's LEC; the N-1 carrier for an interexchange call will usually be the calling customer's interexchange carrier.¹³ Rather than perform its own querying, an N-1 carrier also may arrange for other carriers or third parties to provide querying and other portability services for them.¹⁴

5. The Commission also determined that if an N-1 carrier arranges with another entity to perform queries on the carrier's behalf, that other entity may charge the N-1 carrier in accordance with requirements to be established in the long-term number portability cost recovery proceeding. The Commission noted that when an N-1 carrier fails to ensure that a call is queried, the call might be routed by default to the LEC that originally served the telephone number.¹⁵ If the number has been ported, the LEC that originally served the customer incurs costs in redirecting the call. This could happen, for example, if there is a technical failure in the N-1 carrier's ability to query, or if the N-1 carrier fails to ensure that its calls are queried, either through its own query capability or through an arrangement with another carrier or third-party. The Commission determined in the *Second Report and Order* that if a LEC performs queries on default-routed calls, the LEC may charge the N-1 carrier in accordance with requirements established in a Commission proceeding aimed at implementing section 251(e)(2)'s competitive neutrality requirement with respect to the costs of long-term number portability.¹⁶

6. The Competitive Pricing Division (Division) of the Common Carrier Bureau issued *Memorandum Opinions and Orders* on October 30, 1997, December 30, 1997, July 1, 1998, and July 16, 1998 granting petitions by Ameritech Operating Companies (Ameritech), Bell Atlantic Telephone Companies (Bell Atlantic), Southwestern Bell Telephone Company (Southwestern Bell), Pacific Bell Telephone Company (Pacific Bell), U S WEST Communications Inc. (U S WEST), and Sprint to

¹¹ *In re Telephone Number Portability, Second Report and Order*, 12 FCC Rcd 12281, 12323 (1997) (*Second Report and Order*).

¹² NANC RECOMMENDATION, *supra* note 4, app. D (Architecture & Administrative Plan for Local Number Portability), ¶ 7.8, at 8.

¹³ *Id.*, at attachment A (Example N-1 Call Scenarios); LOCAL NUMBER PORTABILITY REPORT, *supra* note 4, at § 9.1.3. & fig. 9-3 (N-1 Network Query).

¹⁴ *See Order & Further Notice*, 11 FCC Rcd at 8404.

¹⁵ *Second Report and Order*, 12 FCC Rcd at 12324-25.

¹⁶ The Commission has adopted and released an order addressing the recovery of costs associated with the implementation of long-term number portability. *In re Telephone Number Portability, Third Report and Order*, FCC 98-82 (rel. May 12, 1998) (*Third Report and Order*). The *Third Report and Order* was published in the Federal Register on June 29, 1998 [63 FR 35150] and became effective on July 29, 1998.

establish new service rate elements to provide long-term number portability query services.¹⁷ The Division required all six carriers, however, to conform their rates, rate structures, regulations, and services offered under these rate elements to any determinations made by the Commission in CC Docket No. 95-116, the number portability docket.¹⁸ The Division further concluded that the tariffs that Ameritech, Bell Atlantic, Southwestern Bell, Pacific Bell and U S WEST filed implementing the rate elements raised substantial questions of lawfulness.¹⁹ Consequently, the Division suspended the tariffs for one day and set them for investigation.²⁰ The Division also imposed an accounting order for the duration of the investigation.²¹ The Commission issued a *Tariff Investigation and Termination Order* on March 30, 1998, in which it declared unlawful Ameritech tariff revisions, and terminated as moot the tariff revisions of Bell Atlantic, Pacific Bell, and Southwestern Bell because they had filed superseding tariff revisions.²² On August 19, 1998, the Commission issued an order which concluded this investigation.²³

¹⁷ See *In re* Petition of Ameritech to Establish a New Access Tariff Service and Rate Elements Pursuant to Part 69 of the Commission's Rules, *Memorandum Opinion and Order*, 12 FCC Rcd 17065 at ¶¶ 1, 13-17 (1997) (*Ameritech and Bell Atlantic Order*); *In re* Petition of Southwestern Bell Telephone Company Under Section 69.4(g)(1)(ii) of the Commission's Rules for Establishment of New Service Rate Elements, *Memorandum Opinion and Order*, 13 FCC Rcd 177 (1997) (*Southwestern Bell and Pacific Bell Order*); *In re* Petition of U S WEST Communications Inc. to Establish Part 69 Rate Elements to Offer Switched Access Transport for Local Number Portability, *Memorandum Opinion and Order*, 13 FCC 12673 (1998) (*U S WEST Order*); *In re* Petition of Sprint to Establish Part 69 Rate Elements to Offer Switched Access Transport for Local Number Portability, *Memorandum Opinion and Order*, DA 98-1437 (rel. July 20, 1998) (*Sprint Order*). The Division also suspended for one day and incorporated into the investigation Ameritech revisions to its long-term number portability query service purporting to clarify in certain circumstances Ameritech's right to block unqueried traffic that carriers deliver to Ameritech network. See *In re* Ameritech Revisions to Tariff F.C.C. No. 2, CCB/CPD 97-46, *Memorandum Opinion and Order*, DA 97-2353 (rel. Nov. 7, 1997). We note that prior to the effective date of the *Third Report and Order*, carriers were required to file petitions to establish new number portability rate elements. See 47 C.F.R. § 69.4(g)(1)(ii). As of July 29, 1998, however, carriers may file tariffs with the Commission to establish new number portability rate elements without filing a petition. See 47 C.F.R. § 52.33.

¹⁸ *Ameritech and Bell Atlantic Order* at ¶ 17; *Southwestern Bell and Pacific Bell Order* at ¶ 9; *U S WEST Order* at ¶ 6; *Sprint Order* at ¶ 6.

¹⁹ *Ameritech and Bell Atlantic Order* at ¶ 18; *Southwestern Bell and Pacific Bell Order* at ¶ 10.

²⁰ *Ameritech and Bell Atlantic Order* at ¶ 18; *Southwestern Bell and Pacific Bell Order* at ¶ 11.

²¹ *Ameritech and Bell Atlantic Order* at ¶ 18; *Southwestern Bell and Pacific Bell Order* at ¶ 11.

²² See *In re* Number Portability Query Services, CC Docket No. 98-14, *Tariff Investigation and Termination Order*, FCC 98-50 (rel. March 30, 1998).

²³ *In re* Number Portability Query Services, *Order*, CC Docket No. 98-14, FCC 98-204 (rel. Aug. 19, 1998) (*Order*). The *Order* allows Ameritech, Bell Atlantic, Pacific Bell, and Southwestern Bell to continue offering on an interim basis their long-term number portability query and database services under the rates and conditions contained in those tariff revisions. The *Order* requires the carriers, however, to file new rates, terms, and conditions for these query and database services at the same time they tariff their long-term number

7. The Commission released its *Third Report and Order* in the long-term number portability proceeding on May 12, 1998. In that item, the Commission resolved numerous issues concerning how carriers will bear the costs of providing long-term number portability. As discussed above, carriers must determine the LRN for the switch that serves the terminating telephone number of the call. They will accomplish this by querying a service control point or by arranging with other carriers or third parties to provide querying services for them.²⁴ Pursuant to the Communications Act and Commission rules, carriers must file tariffs with the Commission detailing their rates and charges as well as any changes to those tariffs already on file.²⁵

III. BellSouth Rate Element Tariffs

8. BellSouth filed Transmittal No. 474 on August 12, 1998, with a scheduled effective date of August 27, 1998.²⁶ This Transmittal established rates, terms, and conditions for number portability query services. BellSouth filed Transmitted No. 482 on October 21, 1998, with a scheduled effective date of November 5, 1998, which proposes to amend its per-query charges and establish volume and term plans.²⁷

9. In the *Third Report and Order*, the Commission concluded that local service providers may query calls for other carriers by arrangement, or may receive unqueried default-routed traffic when the N-1 carrier has not performed the query.²⁸ The Commission also concluded that carriers shall indicate in the cost support section of their tariffs the portion of their carrier-specific costs directly related to providing number portability attributable to the number portability services they provide end users, and that portion attributable to the number portability query services they provide on behalf of other carriers.²⁹ After reviewing the record on this tariff, we conclude that BellSouth's Tariff F.C.C. No. 1 described in Transmittal No. 482 raises substantial questions of lawfulness warranting suspension and investigation. BellSouth has not provided sufficient cost justification and other support to permit a full assessment of the reasonableness of the proposed charges and rate structures, particularly in light of the ongoing proceeding in CC Docket No. 95-116. It is also unclear whether the investments listed by BellSouth are exclusive to number portability.

portability end-user charges. *Order* at ¶ 13.

²⁴ See *Order and Further Notice*, 11 FCC Rcd at 8404.

²⁵ See 47 U.S.C. § 203; 47 C.F.R. § 61.

²⁶ *BellSouth Telecommunications, Inc. Tariff F.C.C. No. 1*, Transmittal No. 474 (filed August 12, 1998).

²⁷ *BellSouth Telecommunications, Inc. Tariff F.C.C. No. 1*, Transmittal No. 482 (filed October 21, 1998) (*BellSouth Transmittal No. 482*).

²⁸ *Third Report and Order*, ¶ 147.

²⁹ *Id.*

10. We therefore suspend the revisions to Tariff F.C.C. No. 1 proposed in BellSouth Transmittal No. 482 for one day and include these revisions in the exiting investigation. We also impose an accounting order with respect to the services offered under this Transmittal during the course of the investigation. We will separately issue an order designating issues for investigation in this proceeding.

V. ORDERING CLAUSES

11. IT IS ORDERED that, pursuant to section 204(a) of the Communications Act of 1934, as amended, 47 U.S.C. § 204(a), and sections 0.91 and 0.291 of the Commission's Rules, 47 C.F.R. §§ 0.91 and 0.291, Tariff F.C.C. No. 1 described in BellSouth Telecommunications, Inc.'s Transmittal No. 482 IS SUSPENDED for one day and INCLUDED in the investigation instituted in CC 98-2239.

12. IT IS FURTHER ORDERED that BellSouth Telecommunications, Inc. SHALL FILE a supplement within five business days after release of this Memorandum Opinion and Order reflecting the one day suspension. For these purposes, we waive sections 61.58 and 61.59 of the Commission's Rules, 47 C.F.R. §§ 61.58 and 61.59. BellSouth Telecommunications, Inc. should cite the "DA" number of this Order as its authority for this filing.

13. IT IS FURTHER ORDERED that, pursuant to section 204(a) of the Communications Act of 1934, as amended, 47 U.S.C. § 204(a), and section 0.291 of the Commission's Rules, 47 C.F.R. § 0.291, BellSouth Telecommunications, Inc. SHALL KEEP ACCURATE ACCOUNT of all amounts that are associated with the rates that are subject to this investigation.

FEDERAL COMMUNICATIONS COMMISSION



Jane E. Jackson
Deputy Chief, Competitive Pricing Division
Common Carrier Bureau